

Senate Bill No. 517

Passed the Senate January 26, 2006

Secretary of the Senate

Passed the Assembly January 23, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

Third enrollment

CHAPTER _____

An act to amend Section 60851 of, and to add and repeal Section 60852.3 of, the Education Code, relating to pupil assessment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 517, Romero. High school exit examination: pupils with disabilities.

Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop a high school exit examination in English language arts and mathematics in accordance with state academic content standards. Existing law requires, commencing with the 2003–04 school year, each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. Existing law requires that the high school exit examination be offered to individuals with exceptional needs, and that individuals with exceptional needs be administered the examination with appropriate accommodations, where necessary.

Existing law requires a school principal, at the request of the parent or guardian, to submit a request for a waiver of the requirement to successfully pass the high school exit examination to the governing board of the school district for a pupil with a disability who has taken the examination with modifications that alter what the test measures and has received the equivalent of a passing score on one or both subject matter parts of the examination. Existing law authorizes the governing board of a school district to waive the requirement to successfully pass one or both parts of the high school exit examination for a pupil with a disability if specified requirements are met.

This bill would require a school district to report to the State Board of Education, in a manner and by a date determined by the Superintendent of Public Instruction, the number and characteristics of these waivers reviewed, granted, and denied and any additional information, as provided, thereby imposing a state-mandated local program.

This bill would require a school district or state special school, as specified, to grant a high school diploma to a pupil with a disability who is scheduled to graduate from high school in 2006, has not passed the high school exit examination, has not received a high school exit examination waiver, and meets other specified criteria. The bill would require a school district or state special school that fails to grant a high school diploma to such a pupil to submit certain documentation to the State Board of Education within 15 days of its determination that the pupil does not meet the specified criteria, and would require the board to review that failure to grant a high school diploma, as provided. The bill would authorize the board to direct the school district or state special school to grant a high school diploma to the pupil if the board finds that the pupil meets the specified criteria. The bill also would require the school district and state special school to report to the Superintendent of Public Instruction certain information, including the number of pupils granted diplomas in this manner. The bill would provide for the repeal of these provisions on December 31, 2006. By imposing additional duties on school districts, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 60851 of the Education Code is amended to read:

60851. (a) Commencing with the 2003–04 school year and each school year thereafter, each pupil completing grade 12 shall successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. Funding for the administration of the high school

exit examination shall be provided for in the annual Budget Act. The Superintendent shall apportion funds appropriated for this purpose to enable school districts to meet the requirements of this subdivision and subdivisions (b), (c), and (d). The state board shall establish the amount of funding to be apportioned per test administered, based on a review of the cost per test.

(b) Each pupil shall take the high school exit examination in grade 10 beginning in the 2001–02 school year and may take the examination during each subsequent administration, until each section of the examination has been passed.

(c) (1) At the parent or guardian's request, a school principal shall submit a request for a waiver of the requirement to successfully pass the high school exit examination to the governing board of the school district for a pupil with a disability who has taken the high school exit examination with modifications that alter what the test measures and has received the equivalent of a passing score on one or both subject matter parts of the high school exit examination. A governing board of a school district may waive the requirement to successfully pass one or both subject matter parts of the high school exit examination for a pupil with a disability if the principal certifies to the governing board of the school district that the pupil has all of the following:

(A) An individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)) in place that requires the accommodations or modifications to be provided to the pupil when taking the high school exit examination.

(B) Sufficient high school level coursework either satisfactorily completed or in progress in a high school level curriculum sufficient to have attained the skills and knowledge otherwise needed to pass the high school exit examination.

(C) An individual score report for the pupil showing that the pupil has received the equivalent of a passing score on the high school exit examination while using a modification that fundamentally alters what the high school exit examination measures as determined by the state board.

(2) A school district shall report to the state board, in a manner and by a date determined by the Superintendent, the number and characteristics of waivers reviewed, granted, and denied under this

subdivision and any additional information determined to be in furtherance of this subdivision.

(d) The high school exit examination shall be offered in each public school and state special school that provides instruction in grades 10, 11, or 12, on the dates designated by the Superintendent. An exit examination may not be administered on any date other than those designated by the Superintendent as examination days or makeup days.

(e) The results of the high school exit examination shall be provided to each pupil taking the examination within eight weeks of the examination administration and in time for the pupil to take any section of the examination not passed at the next administration. A pupil shall take again only those parts of the examination he or she has not previously passed and may not retake any portion of the exit examination that he or she has previously passed.

(f) Supplemental instruction shall be provided to any pupil who does not demonstrate sufficient progress toward passing the high school exit examination. To the extent that school districts have aligned their curriculum with the state academic content standards adopted by the state board, the curriculum for supplemental instruction shall reflect those standards and shall be designed to assist the pupils to succeed on the high school exit examination. This chapter does not require the provision of supplemental services using resources that are not regularly available to a school or school district, including summer school instruction provided pursuant to Section 37252. In no event shall any action taken as a result of this subdivision cause or require reimbursement by the Commission on State Mandates. Sufficient progress shall be determined on the basis of either of the following:

(1) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and the minimum levels of proficiency recommended by the state board pursuant to Section 60648.

(2) The grades of the pupil and other indicators of academic achievement designated by the school district.

SEC. 2. Section 60852.3 is added to the Education Code, to read:

60852.3. (a) Notwithstanding any other provision of law, a school district or state special school as designated in Sections

59000 and 59100 shall grant a high school diploma to a pupil with a disability who is scheduled to graduate from high school in 2006, has not passed the high school exit examination, and has not received a waiver pursuant to subdivision (c) of Section 60851, if all of the following criteria exist:

(1) The pupil has an individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 (a)).

(2) According to the individualized education program or the Section 504 plan of the pupil, that is dated on or before July 1, 2005, the pupil is scheduled to receive a high school diploma with an anticipated graduation from high school in 2006.

(3) The school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma in 2006.

(4) The pupil has attempted to pass the high school exit examination at least twice after grade 10, including at least once during grade 12, with the accommodations or modifications, if any, specified in the individualized education program or the Section 504 plan of the pupil.

(5) Either (A) the pupil has received remedial or supplemental instruction focused on the high school exit examination either through the school of the pupil, private tutoring, or other means, or (B) the school district or state special school failed to provide the pupil with the opportunity to receive that remedial or supplemental instruction.

(6) If the pupil received remedial or supplemental instruction as set forth in paragraph (5), the pupil has taken the high school exit examination at least once following the receipt of that remedial or supplemental instruction. This paragraph does not apply if following the receipt of that remedial or supplemental instruction there is no further administration of the examination on or before December 31, 2006.

(7) The pupil, or the parent or legal guardian of the pupil if the pupil is a minor, has acknowledged in writing that the pupil is entitled to receive free appropriate public education up to and including the academic year during which the pupil reaches 22

years of age, or until the pupil receives a high school diploma, whichever event occurs first.

(b) A school district or state special school as designated in Sections 59000 and 59100 shall submit documentation of the failure to grant a high school diploma pursuant to this section to the state board within 15 days of the determination that the pupil with a disability who is scheduled to graduate from high school in 2006 does not meet the criteria stated in subdivision (a). The state board shall review any failure to grant a high school diploma by a school district or state special school pursuant to this section not later than its next regularly scheduled meeting occurring at least 30 days following receipt of complete documentation from the school district or state special school. If the state board finds that the pupil meets the criteria stated in subdivision (a), the state board may direct the school district or state special school to grant a high school diploma to the pupil.

(c) Each school district and state special school as designated in Sections 59000 and 59100 shall report to the Superintendent, in a manner and by a date determined by the Superintendent, all of the following information:

(1) Documentation of the procedure used to implement this section.

(2) The number of pupils granted diplomas pursuant to this section.

(3) Any additional information determined to be in furtherance of this section.

(d) This section shall remain in effect only until December 31, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2006, deletes or extends that date.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that certain pupils with disabilities are able to graduate from high school and receive a high school diploma in 2006, it is necessary that this act take effect immediately.

Approved _____, 2006

Governor